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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,862	01/26/2004	Hideyuki Seto	17400	9396

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SCULLY SCOTT MURPHY & PRESSER, PC  
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GARDEN CITY, NY 11530

EXAMINER
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CATTUNGAL, SANJAY

ART UNIT	PAPER NUMBER
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3768

MAIL DATE	DELIVERY MODE
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06/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/764,862

Applicant(s)

SETO ET AL.

Examiner

Sanjay Cattungal

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,432,046 to Yarush et al. ("Yarush") in view of U. S. Patent No. 5,372,124 to Takayama et al. ("Takayama") further in view of 5,392,067 to Konno et al. ("Konno")**

4. Regarding **Claims 1, 3, 4, and 7**, Yarush teaches an endoscope comprising: an elongated flexible inserting portion (Fig. 12a, element 270); an operating portion which is mounted on the proximal end side of the inserting portion and which has a grip portion capable of being gripped by an operator (Fig. 1, element 44); an objective optical system which is mounted to a distal end portion of the inserting portion and which can transmit an optical image of a subject into the inserting portion (Fig. 1, element 10); image guiding fibers which can transmit the optical image incident from the distal end side via the objective optical system, to the proximal end side and which is inserted to the inserting portion so that the proximal end side extends in the grip portion

from the inserting portion (Col. 3, Lines 20-32); an optical image output portion which constitutes the proximal end side of the image guiding fibers and which outputs the optical image transmitted from the distal end side (Fig. 1, element 36);

5. Yarush does not teach the use of a plate frame in the operation portion for suppressing a deforming of the operating portion.

6. Takayama discloses the use of plates for suppressing deformation. (Fig. 25 and 26 element 243)

7. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yarush with a setup such that plates would be used at the operating portion as taught by Takayama, since such a setup would help resist forces and prevent unwanted deformation.

8. Yarush and Takayama teach all of the above claimed limitations but do not expressly teach a setup such that the plate frame has a notch portion to mount the image pick-up unit at a position at which the optical image transmitted by the optical output portion can be picked up in the operating portion.

9. Konno discloses a setup such that an endoscope has a notch portion to mount the image pick-up unit at a position at which the optical image transmitted by the optical output portion can be picked up in the operating portion. The image pick up unit is mounted in parallel to the operating portion. (Fig. 36, elements 27, 27a and 12)

10. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yarush and Takayama with a setup such that the plate frame has a notch portion to mount the image pick-up unit at a position at which the optical image

transmitted by the optical output portion can be picked up in the operating portion since, attaching the image pick up unit with the plate frame would provide more stability and support to the image pick up unit.

11. Regarding **Claim 5**, Yarush teaches an image pick-up device holding unit which holds the image pick-up unit holding portion which holds the image pick up unit; an optical system holding portion which holds the objective optical system (Fig. 9, element 200); a fitting portion which fits the optical system holding portion and the image pickup unit holding portion while advancing and returning them so that the image pick-up unit can pick up the optical image outputted from the objective optical system (Fig. 9, element 200);; and a waterproof structure portion mounted to the fitting portion. (Col. 23, line 66 through Col. 24, Line 8)

12. Regarding **Claim 6**, Yarush teaches an endoscope comprising: an elongated flexible inserting portion; and an operating portion which is mounted on the proximal end side of the inserting portion and which has a grip portion capable of being gripped by an operator, the endoscope further comprising: an electric device outputting predetermined signals (Fig. 2, element 70); an internal structure mounted in the operating portion, which is inserted in the grip portion from the proximal end side thereof to the distal end side; a notch portion mounted to the internal structure; and electric device mounting means which is mounted to the internal structure and mounts the electric device within the notch portion.(Fig. 2, element 70 and Fig. 9, element 67)

13. Regarding **Claims 8-10**, Konno teaches an adjusting and fixing means which can adjust the bending amount of the image guiding fibers and which fixes the image pick-

up unit. (Col. 22, Line 66 through Col. 23, Line 5) Use of screws for adjusting and fixing is well known in the art and is also taught by Yarush (Col. 7, lines 49-52)

**Conclusion**

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjay Cattungal whose telephone number is (571)272-1306. The examiner can normally be reached on 9:30 - 5:00 pm.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on (571)272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SPC

*Eleni Mantis-Mercader*  
SE 3768